

The employer must make all payments to the pension plan that would be made for any other employee. The member must be provided a period of time to “makeup” the employee contributions missed during the period of uniformed service. These contributions **must** be made within three times the period of the uniformed service absence, but no more than five years. Therefore, if a member is absent for one year, the contributions are due within three years. If the member is absent for three years, the contributions are due within five years. No interest will be charged.

The member will be able to “make up” the contributions, on a tax-deferred basis, but they also could pay the contributions due in a lump sum.

Who is subject?

Military Reserves:

A call to service of military reserves will always be under federal military control and subject to USERRA.

National Guard:

National Guard called to active duty by the President of the United States, are under Federal “command and control” and are subject to USERRA. National Guard called up at the request of a state governor are **not** covered under USERRA.

What should you do?

When you receive your orders, take a moment to notify the Montana Public Employee Retirement Administration (MPERA) or ask your employer to do so. This also may be a good time to make sure your beneficiary information is correct.

Upon return to employment, there will be a form to complete so that the MPERA can determine the balance due to bridge your USERRA service with your previous employment. Your employer should have the forms you need to accomplish this task. Submit the completed forms to MPERA so that we can generate a cost statement for you.

Upon receipt of your cost statement, **act**. You do have time restrictions. Contact your payroll clerk to start the wheels rolling to contribute these funds either in a lump sum or on a tax-deferred basis.

This is an official publication of the Montana Public Employee Retirement Administration (MPERA). If you have questions not answered in this publication, we invite you to write, or call.



MPERA
PO Box 200131
Helena MT 59620-0131

Phone: 406-444-3154
Toll free: 1-877-275-7372
E-mail: mpera@state.mt.us
Fax: 406-444-5428

Should any information in this publication conflict with statute or rules, the statute or rules will apply.

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YOUR PENSION USERRA AND YOU

The Uniformed Services Employment and Re-Employment Rights Act (USERRA)

What you need to know about USERRA

USERRA applies to persons who perform duty under the “uniformed services”, including the Army, Navy, Marine Corps, Air Force, Coast Guard, Public Health Services Commission Corps, as well as the reserve components of each of these services. In addition, training or service in the Army National Guard or the Air National Guard, also qualifies as USERRA service.

This publication contains information about USERRA for members of the public retirement systems administered by the Montana Public Employees’ Retirement Board.

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Montana Public Employee
Retirement Administration

Re-Employment Rights:

Generally, persons who leave work in order to serve in the uniformed services are entitled to re-employment if:

- (1) The employee gives the employer advance notice of military service;
- (2) The cumulative leave, combined with all other previous military leave, does not exceed five years;
- (3) The employee returns to work or submits an application for re-employment within certain time frames after the uniformed service.

Note:

- The employee notice requirement does not apply when there is a military necessity or when notice is impossible.
- The five-year limit does not include time in which the employee is ordered to remain on active duty or called into federal service as a member of the national guard.

Timeframes for return-to-work:

Service of 1 to 30 days -

A returning member must report to work by the beginning of the next regularly scheduled day that would fall eight hours after the end of the calendar day. Example: The employer cannot require a member who returns home at 10:00 p.m. to report to work at 12:30 a.m., but can require the member to report to work at 6:00 a.m.

30 days or more -

A member absent for more than **30** days but less than **181** days must complete an application for re-employment or return to work within **14** days of completion of service.

More than 180 days -

A member absent for more than **180** days must complete an application for re-employment or return to work within **90** days of completion of service.

If a member fails to return within the prescribed time frames, the employer simply treats the member as if they were absent

from work, and records and issues discipline as they would toward any other employee.

Retirement Benefits:

A member who is re-employed pursuant to USERRA must be treated as if there was no break in service. The uniformed service must be considered in determining the person's vesting and for the purposes of the accrual of benefits under the retirement plan (service).

For the purposes of determining the contributions due for the absence from employment, the employer must determine the compensation the member would have received during the period of uniformed service:

- (1) at the salary rate the employee would have received, if not for the period of uniformed service (including any pay raises the member may have received if there had been no break in service); or
- (2) if the employer cannot determine the hourly rate with reasonable certainty, the cost will be calculated on the basis of the employee's average rate of compensation during the 12-month period preceding the period of uniformed service.

(continued on page 4)